

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Sep 26, 2022

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

NFN LE'TAXIONE,

Plaintiff,

v.

COUNTY OF SPOKANE, SPARBER,
LT. WIRTH, SGT PURCELL, SGT
HILL, OFFICER SMITH,
CLASSIFICATION UNIT,
MAILROOM STAFF #1493, and MR.
SCOTT,

Defendants.

No. 2:22-cv-00078-MKD

ORDER DISMISSING ACTION FOR
FAILURE TO COMPLY WITH
FILING FEE AND *IN FORMA*
PAUPERIS REQUIREMENTS AND
DENYING AS MOOT MOTION FOR
APPOINTMENT OF COUNSEL

ECF No. 2

On April 22, 2022, the Court received Plaintiff NFN Le'Taxione's *pro se* civil rights complaint. ECF No. 1. Plaintiff, a prisoner at the Spokane County Detention Services, did not pay the filing fee to commence this action as required by 28 U.S.C. § 1914. He also failed to comply with 28 U.S.C. § 1915(a)(2), which requires prisoners who seek to bring a civil action without prepayment of the filing fee to submit a certified copy of their inmate account statement (or the

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1 institutional equivalent) for the six months immediately preceding the filing of the
2 complaint. Plaintiff was advised of these deficiencies by letter dated April 22,
3 2022. ECF No. 3.

4 Plaintiff is proceeding *pro se* in two separate civil actions, both filed
5 pursuant to 42 U.S.C. § 1983 and alleging violations of his civil rights.
6 *Le'Taxione v. Spokane County, et al.*, Case No. 2:22-cv-00066-MKD
7 (*"Le'Taxione I"*); *Le'Taxione v. County of Spokane, et al.*, Case No. 2:22-cv-
8 00078-MKD (*"Le'Taxione II"*). Plaintiff submitted a copy of his trust fund
9 account statement for the six months immediately preceding the filing of the
10 complaint in *Le'Taxione I*, and the Court granted Plaintiff's Application to
11 Proceed *In Forma Pauperis* in that action. Case No. 2:22-cv-00066-MKD; ECF
12 Nos. 4, 12.

13 On May 3, 2022, Plaintiff filed a Declaration in *Le'Taxione I*, asking the
14 Court to "please put all documentation from Case 2:22-cv-00066-MKD and Case
15 2:22-cv-00078-MKD together to form one case[.]" Case No. 2:22-cv-00066-
16 MKD; ECF No. 16 at 1. On August 12, 2022, the Court denied Plaintiff's
17 construed request to consolidate actions and has not directed service of Plaintiff's
18 complaint in *Le'Taxione I*. Case No. 2:22-cv-00066-MKD; ECF No. 18. Plaintiff
19 was advised in the Court's Order to Amend or Voluntarily Dismiss Complaint and
20 Denying Construed Request to Consolidate Actions in *Le'Taxione I* that if he does

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1 not wish to proceed with two separate civil rights actions, then he should choose
2 to file a First Amended Complaint in *Le 'Taxione I* which cures the deficiencies
3 identified in the Court's Order, and includes all causes of action and all
4 Defendants. *Id.* at 34.

5 On August 15, 2022, this Court issued an Order to Comply with *In Forma*
6 *Pauperis*/Filing Fee Requirements in the instant action. Case No. 2:22-cv-00078-
7 MKD; ECF No. 5. Plaintiff was ordered to either submit a certified copy of his
8 six-month inmate account statement (or institutional equivalent) for the period
9 immediately preceding April 22, 2022, or explain why he should not be required
10 to do so. *Id.* at 3. In the alternative, Plaintiff was instructed to pay the full
11 \$402.00 filing fee. *Id.* Plaintiff was cautioned that failure to do either within
12 thirty (30) days of the date of the Order would result in the dismissal of this case.
13 *Id.* Plaintiff did not comply with these directives and has filed nothing further in
14 this action.

15 Accordingly, **IT IS ORDERED:**

16 1. For the reasons set forth above and in the Court's prior Order, ECF No.
17 5, this action is **DISMISSED WITHOUT PREJUDICE** for failure to comply
18 with the filing fee and *in forma pauperis* requirements of 28 U.S.C. §§ 1914 and
19 1915.

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1 2. Plaintiff's Motion for Appointment of Counsel, ECF No. 2, is **DENIED**
2 **as moot.**

3 3. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal
4 of this Order would not be taken in good faith and would lack any arguable basis
5 in law or fact.

6 **IT IS SO ORDERED.** The Clerk of Court is directed to enter this Order,
7 **enter judgment**, provide copies to Plaintiff, and **CLOSE** the file.

8 **DATED** September 26, 2022.

9
10 s/Mary K. Dimke
11 MARY K. DIMKE
12 UNITED STATES DISTRICT JUDGE
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